STATE OF MONTANA

BIENNIAL REPORT

OF THE

ATTORNEY GENERAL

TO THE

GOVERNOR

1905-6

NOVEMBER 30, 1906

ALBERT J. GALEN,

ATTORNEY GENERAL

(Case Docket, Reports of County Attorneys, Official Opinions, Etc., Omitted.)

MONTANA

Department of Attorney General

Assistants
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JOHN J. McGUINNESS
Secretary

Helena, Montana, November 30, 1906.

To His Excellency,

Joseph K. Toole, Governor,

Helena, Montana.

Sir:—Pursuant to the provisions of subdivision 12, of Section 460 of the Political Code, I have the honor to submit herewith the biennial report of the Attorney General's Department of the State Government, showing the business and affairs thereof between the first day of December, 1904, and the 30th day of November, 1906. This report is made as of this date rather than the first Monday in November, as it marks the close of the fiscal year, and I am of the belief that the short delay will be more beneficial than detrimental.

Appended hereto you will find a full and complete copy of our office docket and of reports made by county attorneys.

NEEDS OF OFFICE.

The volume of business devolving upon this office has so greatly increased that at the present time it is impossible for myself and limited office force to properly attend therto, and in the interest of this department, and of the executive government of the State, I must through you, respectfully suggest, to the legislative assembly the advisability of allowing this office adequate appropriation and assistants, more especially so, in the event a railroad commission law is enacted, which now seems assured.

For the past two fiscal years I have been allowed but two assistants, one stenographer and an appropriation for office and traveling expenses of only $450.00 per annum. The

salaries allowed the assistants and stenographer were fixed, respectively, at $2,000.00, $1,800.00 and $1,200.00 per annum. These salaries are not comensurate with the character, education and experience of the men required to properly assume the responsibility and perform the work of the office devolving upon them, and I feel that it is a source of much congratulation, not only to myself but to the public, that I have been able to secure and retain the services of such able, honest and energetic men as it has been my good fortune to secure as my assistants during my incumbency in office, considering the inadequacy of the compensation allowed. Men of their type and ability should and could demand double the income in almost any other field, and I have been in continual fear lest they should leave me for more lucrative positions, to the great damage and detriment of my department and the State at large. I believe that in all justness and fairness the salaries of each of my assistants should be fixed at $2,500.00 per annum and that the stenographer's salary should be fixed at $1,800.00 per annum. As to the stenographer, it is necessary to have in this office a male stenographer of education, intelligence, honesty and experience, and I feel that I in no way exaggerate when I say, that his duties are more technical, tedious and onerous than those devolving upon any other person of like employment in the capitol building.

The annual appropriation for office and traveling expenses should be fixed at not less than $1,000.00 per annum, and somewhat greater in the event the use of free transportation is by law prohibited. To my mind it is unwise to place so much responsibility and so many grave and important duties upon a state officer and not provide him with adequate means to properly and efficiently execute the trust.

EFFECT OF RAILROAD COMMISSION.

In the event of the passage of a railroad commission law, which now seems beyond conjecture, in addition to that which I have above outlined, the attorney general should be allowed an additional assistant at a salary of $2,000.00 per

annum, a clerk at a salary of $1,500.00 per annum and $500 additional office and traveling expenses.

It will be borne in mind that the legislative assembly have no right or authority to make appropriations for a period of longer than two years, and further, that no money by it appropriated can be drawn from the general treasury until sworn claims, properly supported by vouchers, have first been presented to, and approved by, the state board of examiners; therefore, for the support and proper administration of so important a department of government as that of the attorney general, it would seem to be the better exercise of wisdom if appropriations for expenses were made greater than may seem actually necessary, so that the office can not be in any way hampered or disabled in case of emergency, or at all. And in this connection, it may not be amiss to call attention to the fact, that all moneys by the legislative assembly appropriated for any specific purpose which remain unused at the close of the second fiscal year for which appropriations have been made, revert back to the general fund. I do not believe that I have over-estimated the needs of this office and think that my statements will be borne out by my assistants, as well as other state officers in the building familiar with the facts.

OFFICE EMBARRASSED.

During the past two years had it not been for free transportation furnished myself and assistants, and the fact that many of my office expenses were allowed and paid from other funds, and further, that by permission of the board of examiners, I was able to appropriate for office use the Colbert estate dividend on the state's claim for money advanced, I should now be much more financially involved.

BUSINESS AND AFFAIRS OF THE OFFICE.

A perusal of the case docket and copies of official opinions rendered, hereto attached and herewith presented, will give some idea of the extent and importance of the business and affairs of this office. But, as your excellency well realizes and appreciates, in addition to the matters appearing in this

report and appended hereto and made a part hereof, much of my time is taken up by the various executive boards, and if I were to properly perform the duties imposed upon me by the constitution and law upon these boards. I should be busy the greater portion of my time, and with the direction of the affairs of my department in addition, all of my time would easily be taken up; and, besides, the board work and other matters herein shown, our daily office correspondence is voluminous and we have numerous daily consultations with various state officers, county attorneys and members of boards of county commissioners, and the legislative assembly when in session, which consume much time. And in addition all forms of state contracts, notices and other forms are prepared by this office.

CASES.

I call your attention, specially, to a few of the more important cases which have been handled by my department during the past two years, as I believe the cases to which your attention is here directed are deserving of more than passing notice.

BEEF TRUST CASE.

It will be remembered that by House Joint Resolution No. 10, of the Ninth Legislative Assembly, (Laws 1905, p. 357), the attorney general was directed to forthwith institute and diligently prosecute an official inquiry and investigation into the business, affairs, and operations of any and all persons, companies or corporations, combines or trusts doing business in the State of Montana in violation and contravention of the constitution and laws.

Acting in obedience to this direction of the legislative assembly, the case of the State of Montana, plaintiff, v. Cudahy Packing Company, et al., was by my department pushed for trial in the district court of the first judicial district of the State of Montana, in and for the county of Lewis & Clark, and the defendants having been called on to plead, demurred to the information, which demurrer was allowed on May 20, 1905. This demurrer raised the question as to

the constitutionality of the law, and in order to test the same, an appeal was perfected by us on the 17th day of June, 1905, and thereafter the matter having been by us properly presented and argued to the supreme court, our anti-trust statute was by the court declared unconstitutional by a decision duly and regularly made and entered affirming the judgment of the lower court on November 17, 1905. (See 33 Mont. 179; s. c. 82 Pac. 833).

In the direction contained in the legislative resolution hereinabove referred to, work of no small proportion was placed upon my office in the event the law had not been declared unconstitutional, and while I was directed and expected to institute such prosecutions and investigations, still no appropriation whatever was made to enable my office to properly do the work. In the States of Missouri and Kansas, the attorney general was given similar direction by resolution, but large appropriations were in each instance made to enable him to properly perform such work. Imagine my office investigating and prosecuting trusts with any degree of success out of the small appropriation made for all office and traveling expenses of but $450.00 per annum. Further, this statute can be easily remedied so as to avoid the constitutional objections pointed out by the supreme court decision, and I believe this should be done by making the statute general in its application and not excepting any combines from its operation. And, in the event a statute is so enacted, and it is thought desirable that this office should make a specialty of the prosecution of unlawful combines and trusts, then the legislative assembly must make adequate appropriation for this specific purpose.

COLBERT ESTATE.

The Colbert Will case has been called to your attention in the reports of my predecessor and has been before the public to such an extent that all are generally familiar therewith. With the assistance of Cornelius F. Kelley, Esq., of Butte, Montana, acting as special attorney for the State, my predecessor, as well as myself, have co-operated in an en-

deavor to reduce the estate to cash and place the same in the state treasury as an escheat, and while as yet this has not been accomplished, still fraudulent claims and demands have been successfully resisted and the estate preserved, either to eventually go to the rightful heirs, if any there be, or to the State of Montana. The value of the estate is such as to have made avaricious and dishonest persons come forward with brazenness in an endeavor to obtain the same or an interest therein upon one pretext or another.

The first that my department had to do with this matter since my installation into office, was in the presentation of a motion for a rehearing in the supreme court on January 17, 1905, which motion was by the court granted, and subsequently, after having been argued and submitted, the state's position and the judgment of the lower court were affirmed on March 31, 1905. (Original decision reported in 31 Mont. 461, 78 Pac. 971; on rehearing, 31 Mont. 477, s. c. 80 Pac. 248.)

Subsequent to the decision on rehearing hereinabove referred to, an administrator, J. W. Collins, was, on petition duly and regularly made, appointed and qualified and has since had charge of the property and estate. Numerous alleged heirs have since appeared, and the matter is now pending in the district court of Silver Bow County upon petitions for decree of heirship which have not yet been heard. And in this connection, I desire further to report that on September 22, 1905, a case entitled Collins, administrator v. Alex. J. McKay, et al., being an action to quiet title, was tried before the district court of Silver Bow County, without a jury, and resulted in judgment against the plaintiff, thus losing to the Colbert Estate a considerable portion of the realty theretofore supposed to have been rightfully included therein. Appeal was perfected to the supreme court from this judgment on May 4, 1906, and the matter is now pending on appeal.

SHERIFF'S MILEAGE CASE.

The Sheriff's mileage case was one of no little importance to the State of Montana, and by the decision of the supreme

court the constitutionality of the law requiring sheriffs to transport prisoners to the state pentitentiary, insane asylum and reform school at actual cost was by the court upheld. (33 Mont. ——, 83 Pac. 482.)

THE BOND CASE.

The bond case, so-called, is the most important ever presented by this department, and probably the most important ever called to the attention of the supreme court of Montana. This case involved the question as to whether the system inaugurated and attempted to be continued of bonding the land grants made to the State of Montana by the United States Government for its various educational institutions, pledging not only the lands themselves but the moneys derived from their sale, lease and from licenses to cut timber thereon, was in conformity with the provisions of the enabling act admitting Montana into the Union and making these grants of lands, and with the constitutional provisions of the State restricting and prescribing the use to which such lands and the moneys derived therefrom should be put. At the time this question was raised much agitation, newspaper comment and thoughtless statements were in evidence, and the gravity and importance of the subject matter did not seem to be apparent to those directly affected or to the general public, but to-day, after the case has been finally submitted and decided by our supreme court, it is believed that many appreciate the magnitude, importance and great benefits of this decision and of the continued benefits which must inure to posterity. It would have been a shame and an outrage to permit of the wasting of these magnificent land grants for the payment of bonds issued for the erection of buildings, when it is apparent that congress gave them, and the State, through its constitutional convention, accepted them as an endowment and provided that they should be held and safely kept, and the money derived from their sale held inviolate and sacred to the purposes for which they were dedicated, the interest accruing on the permanent fund derived from the sale of such lands, and the income derived from the lands, only to be used for the purpose of the

support, maintenance and perpetuation of such institutions. If these grants were permitted to be sacrificed now for the erection of buildings, which must crumble and decay with time, the endowment feature would be thoroughly destroyed and in years to come our educational institutions would of necessity be closed or the taxpayer would groan under the onerous burden of not only providing the buildings but also the necessary money for their support. On the other hand in my humble judgment, if the lands and the moneys derived therefrom are held sacred and in strict accordance with the trust provisions of the act of congress and the directions of our constitutional convention, in the near future these institutions will be supported without any drain whatsoever upon the taxpayer. The only regret that can now be indulged in, is not that the question has been raised and decided by the supreme court, but rather that this pernicious system was ever inaugurated. The question must sooner or later have been raised, and myself and assistants congratulate ourselves, that it was by us raised and presented at the earliest practicable moment, and in time to save the State from a worse predicament than that in which it had already been involved.

The matter can be remedied without serious embarrassment to the State, the institutions, or the people, and this should be done without further unnecessary delay. We, as members of the state board of land commissioners, under authority conferred upon us by law, have been endeavoring to find some safe investment of state funds, so that the interest might be credited thereto and the treasurer prevented from using the large sums of money in his hands for his own personal gain, and we have found this so difficult that it has been repeatedly suggested by members of the board that the legislative assembly be requested to give us broader power and authority in the matter of making investments of the moneys held by the state treasurer. Of the five hundred thousand dollars of outstanding bonds issued by the state board of land commissioners, the invalidity of which is now apparent to all by virtue of this decision, the State of Mon-

tana holds, owns and possesses one hundred and fifty-four thousand dollars thereof, purchased by the previous land board as an investment for state moneys. Now, I suggest that we act promptly in the interest of the State and pass a law authorizing the issuance of state bonds, bearing four per cent interest, to the extent of the aggregate amount necessary to take up the invalid outstanding obligations, with accrued interest, to the date of the supreme court's final decision. This law, under our constitutional provisions, before it will become effective, must be submitted to the people and approved by a majority vote at a general election. We might as well now face the condition and act upon it, for delays are dangerous., If such a law is passed by the legislative assembly, and by a vote of the people at a general election becomes operative, we can then substitute good state bonds, having a market value, for the one hundred and fifty-four thousand dollars now held by the state treasurer and belonging to the State of Montana, and give unto the individual bond holders the alternative of either exchanging the void bonds by them held for state bonds or of presenting their void obligations to the treasurer and receiving payment therefor in cash, the cash to be derived by virtue of the investment of surplus funds in the hands of the treasurer in such state bonds, issued in excess of the one hundred and fifty-four thousand dollars, to which the State is already entitled.

This is a safe and simple remedy, and in that event we will have bonds with a market value and the credit of the State will be far in advance of what it has ever been heretofore, and the amount of outstanding indebtedness proportionate to the amount of taxable property will be so infinitesimal that the taxpayers will not in any way be substantially if at all affected, for the interest and income from such land grants will hereafter be devoted to the support and maintenance of such institutions and will to the extent of the amount thereof reduce the appropriations necessary to be made from the general treasury. This might have been done long ago, as I sincerely believe the people of the State

of Montana are satisfied with the judgment of the highest tribunal of the State, but the bondholders, or others, for some reason have seen fit to further force the issue and take the matter to the supreme court of the United States on writ of error, where it is now pending, yet to be set for hearing, heard and decided. (This case is reported in 33 Mont. ——; 83 Pac. 874.)

TAX CASES.

Our department has presented to the supreme court a number of cases of unusual importance to the State of Montana, involving the subject of assessment and taxation. Space will not here permit of a detailed discussion of each of these cases, but I will call your attention particularly to the following more important cases:

FLOWERREE CATTLE COMPANY V. LEWIS & CLARK COUNTY.

This case involved the question of the situs of live stock for the purpose of assessment and taxation, which, before the decision of the supreme court, was a much mooted question. It was held that live-stock should be assessed and taxed in the county where the home ranch is situated,—in the county where they belong. (33 Mont. 32; 81 Pac. 398).

DALY BANK & TRUST CO. V. BOARD OF COUNTY COMMISSIONERS OF SILVER BOW COUNTY.

This case involved a consideration of the law with reference to the assessment and taxation of state banks. (33 Mont. 101. 81 Pac. 950).

MONTANA ORE PURCHASING CO. V. JAMES MAHER, County Treasurer.

This case involved the consideration of the law relative to assessment and taxation, and the power and authority of county boards of equalization. (32 Mont. 480; 81 Pac. 13.)

MISSOURI RIVER POWER CO. V. W. L. STEELE, Treasurer.

This was an important case and involved the question of assessment and taxation of property. (32 Mont. 433; 81 Pac. 1093.)

W. A. CLARK & BRO. V. JAMES MAHER.

This was an important case and involved the question of the construction of the law relative to the taxation of private banks. (Decided October 3, 1906, 87 Pac. ——).

STATE OF MONTANA V. AETNA BANKING & TRUST COMPANY.

This was an extremely important case, and involved the question of whether a foreign banking corporation doing business in the State of Montana should not be subject to the same regulations with respect to examination by the state examiner, and the payment of the examiner's fee required of domestic corporations. It was decided that such foreign banking corporations were not required to comply with the state law requiring examination and the payment of the examiner's fee. The pernicious effects of such an exception of foreign corporations has recently been made to appear by the wreck of said Aetna Banking and Trust Company and the great loss, in consequence, resulting to innocent citizens of this state who had confidently deposited their earnings with said bank for safe keeping. I believe this law should be amended so as to include all foregn banking corporations doing business in this state, and if any special benefits or privileges are to be given or allowed to any corporation, that domestic, rather than foreign corporations should be accorded such privileges. It is not right on principle to permit of foreign corporations enjoying rights, immunities or privileges not enjoyed by corporations of our own creation. (Decision in this case was rendered on the 3rd day of October, 1906, 87 Pac. ——).

LAND BUSINESS.

Another very important branch of the case work devolving upon my department is the protection of the State's rights to lands, and since my incumbency in office we have given land cases as particular and careful consideration as any other class of business in which the State is interested. We have had many land contests of great importance, as will be seen by reference to subdivision 8 of the case docket hereto appended. Particular attention is here called to the more important of such cases.

THE CUTBANK CASE.

The case of Alfred E. Allison, contestant v. The State of Montana, contestee, which arose in the Great Falls Land District was one of especial interest to the State and involved the State's right to certain lands embracing the townsite of Cutbank, in Teton County, Montana. In this matter we have been successful before the local land office and the general land office at Washington.

A. J. VOIGHT, Contestant v. THE STATE OF MONTANA, Et Al.

This case was pending on appeal before the Secretary of the Interior, at Washington, D. C., at the time I was inducted into office. The State was well and ably represented in this matter by George H. Stanton, Esq., of Great Falls, Montana, who was employed by the State Board of Land Commissioners prior to the commencement of my term of office. This case involved the State's right to school lands, i. e., Secs. 16 and 36, as against mineral claimants. It was held that the State's right attached absolutely to such school lands upon the State's admission to the Union, unless their mineral character—was known prior to that time, and further, that the burden of proving such mineral character existing prior to the attaching of the grant devolved upon the claimant. This office was notified of this decision on May 31, 1905.

SCHOOL INDEMNITY SELECTIONS.

The most important matter which has probably ever arisen respecting the State's right to lands was a matter before the Secretary of the Interior of the United States, involving the State's rights to 29,484.11 acres of land which had been by the State selected as an indemnity for lost school lands., The Honorable Secretary of the Interior directed that the State make showing why the selection of said lands should not be cancelled, and by reason thereof your Excellency and myself went to Washington and as a result were successful in securing patents for large tracts of lands and of saving to the State nearly the entire tract upon which showing of the State's right was required by the Secretary of the Interior.

MISCELLANEOUS CASES.

A perusal of the case docket as to criminal and other cases presented by us in the supreme court will show you the number thereof and the great increase of State business and the success with which we have met in looking after State cases.

BONDS PASSED UPON.

The statement of bonds and securieties passed upon by this department, hereto appended, shows only the list of such bonds in which State moneys were actually invested, after approval of the proceedings by this department. There were a large number of transcrpts examined by this office, upon direction of the board of land commissioners which were not approved and in instances where the state's bids for bond issues were not accepted, which are not shown.

REPORTS OF COUNTY ATTORNEYS.

The reports of county attorneys, hereto appended, from the various counties of the State show that our penal statutes have been vigorously enforced and guilty persons brought to justice, and that the property and civil rights of the State and counties have been well and ably protected. I believe the State has been exceedingly fortunate in the general good character and exceptional ability and fidelity to

the State's interest of the various persons occupying the position of county attorney.

The attorney general is given supervisory control over county attorneys, but in order to make such supervisory control operative and effective, the law should be so changed that there might be no question as to the extent of the attorney general's power and authority.

STATE TREASURER.

I have at all times been of opinion that interest on public funds should be credited to the fund to which the money deposited belonged and accounted for the same as other moneys paid over to the state treasurer. Pursuant to this belief, and of party platform direction, I prepared two separate bills for the ninth legislative assembly and did everything within my power to bring about the passages of one or the other of them. The first of said bills provided that public funds held by any state, county or city treasurer should be deposited with various depositaries, to be selected by the treasurer and provided that such depositaries should pay over to the treasurer, and the treasurer should account for, two per cent interest on all daily balances on public funds on deposit. The other measure above referred to related particularly to the state treasurer, and provided that the state treasurer should designate as state depositaries the bank or banks offering the best rate of interest for deposits of public funds, and that the interest paid and collected on such funds should be accounted for by the treasurer and credited to the particular fund to which the moneys deposited belonged, and further that all such deposits should be amply secured to the State as against any possibility of loss. These bills having failed to pass, I subsequently prepared forms of bonds as security for state deposits so that all moneys deposited by the treasurer might be more secure to the State than under the practice theretofore existing, and through the board of examiners the state treasurer was directed to use only such form as security for moneys deposited. Later on the republican party in state convention

authorities have not been vigilant and active. With my limited means and assistance it is impossible for me to act as county attorney for the twenty-seven counties of this state, or in the capacity of police officer or sheriff, and it is to be hoped that the general public do not desire or expect me to lay aside work of far greater importance to the state, and attempt so to do, in order that this law may be enforced. The local authorities are primarily charged with enforcement of this law the same as any other criminal statute, and no exception should be made thereof. The system which was inaugurated and in vogue in some cities in the state of securing periodical cash bond forfeitures, which in effect amounts to a license of the violation of this law cannot be justified, and city officials who have resorted to this method in direct violation of the state statute and in order to thwart its operation, are deserving of more severe censure and punishment than the persons who have actually indulged in the violation of the law after having received such sanction from officials. Officers who are sworn to uphold and enforce the law and who thereafter deliberately acquiesce in its violation cannot be treated too drastically, and it might be well for the legislative assembly to give this subject special consideration.

In Silver Bow County, as a result of the open, notorious and flagrant violation of this law, and the utter and aboslute disregard for all authority, it became necessary for my office to interfere in an endeavor to see that the law was enforced and the authority and dignity of the state respected. A condition arose in that county which I believe to be unparalled As the anti-gambling law was being openly and notoriously violated, a number of law abiding citizens formed themselves into a league and, thereafter, waited upon the county attorney, sheriff, mayor and chief of police, with the request that this law be vigorously enforced and persons guilty of its violation punished. Notwithstanding such calls made upon these local officials, the conditions respecting the violation of this law continued until it was thought necessary by such league, to wait upon my office by committee, in a last endeavor and with the fond hope that something might pos-

directed, and the democratic party in state convention commanded, that the attorney general institute proceedings for the recovery of interest collected by—state treasurers and not accounted for; accordingly, I have instituted civil actions against the present state treasurer, James H. Rice, and his bondsmen, and against former state treasurers, A. H. Barret and Timothy E. Collins, and their bondsmen. These actions were commenced in the district court of the first judicial district, Lewis and Clark County, on the 25th day of October, 1906, are now therein pending and will be tried at the earliest practicable moment. The final result of these actions is dependent upon the degree of proof we are able to produce. I would recommend that a law be enacted providing that all treasurers, whether city, county or state, be required to designate depositaries for public funds entrusted to their care, and that the bank or banks offering the best rate of interest and approved security for such deposits, be entitled to preference in making such designation; and further that such treasurers be required to account for all interest paid and collected on such funds and to credit the same to the particular fund or funds to which the money belongs. In such law it would be well, because of the large amount of official bond usually required of such treasurers, to provide that, in the event the treasurer desired to furnish a surety bond as his official bond, that the premium thereon should constitute an item of expense incident to the conduct of his office. In this connection, I also suggest the passage of a criminal statute to carry out the constitutional provision making it a felony for a public officer to profit from public funds or use the same for any purpose not authorized by law.

GAMBLING.

The most aggravating and unsatisfactory matter with which my office has had to deal, has been an attempted uniform enforcement of the anti-gambling statute. Many complaints have been presented to this office with respect to the violation of this law, but it has been almost impossible for me to secure satisfactory results in instances where local

cations. Thereafter, because of the continuance of this condition of affairs, the district court felt called upon to summon a grand jury, and to, in no uncertain terms denounce violaters of this statute, and particularly officers who might have, either directly or tacitly sanctioned the same. The grand jury were fully instructed respecting their duties and the purpose for which they were called, and told to return indictments against all persons guilty of violation of this statute, and to make particular enquiry and investigation into the conduct of officers charged with the enforcement of the law. The grand jury convened and continued in session from week to week without having accomplished much by way of suppressing the continued violation of this statute in Silver Bow County, or indicting persons guilty of violation thereof, and gambling continued in large houses with layout games, openly and notoriously. At this juncture the District Court, upon request of the grand jury for the appointment of special counsel to aid in its deliberations, found it necessary to call upon this office for assistance, and because of the aggravated situation, as made to appear by the district judge, myself and assistant, E. M. Hall, appeared before the district court and the grand jury in an earnest and determined effort to strike an effective and final blow to such flagrant disregard of law and authority, and as we are informed and believe, all the large gambling houses have since discontinued business in Silver Bow County. During our stay with said jury indictments were returned against many of the most prominent violators of the law. Having accomplished this much, it became necessary for us to retire, because of the great amount of other more important state work demanding our attention at home, and these indict-

STATE SHERIFF.

My experience had in connection with the enforcement of the anti-gambling statute and other matters, have brought me to the belief that the best interests of the state would be subserved and that it would be wise for the legislative assembly to, by law, create the office of State Sheriff. As the law now exists, in the event my department were to give any orders or directions, there is absolutely no one to carry them out and see that they are enforced should the sheriff of the county either not do so, or indulge in subterfuge. The state sheriff could be clothed with supervisory control of county sheriffs and his power and authority made co-extensive with the bounds of the state. Other duties might be imposed upon him of a particular nature, but I feel sure that such an officer would greatly strengthen the strong arm of the executive government.

MY ASSISTANTS.

I cannot say too much in praise of the efficient and honest work of my assistants, W. H. Poorman and E. M. Hall. They have devoted all of their time and energy in an endeavor to make my administration a success, and their loyalty cannot be surpassed. They are both men of education, and good, capable lawyers, entitled to public confidence and deserving of far better remuneration for their services than the law has allowed them during the time they have served me. They and each of them are entitled to share equally with me in whatever credit may be due for the conduct of the affairs of state devolving upon this department. I have also been extremely fortunate in securing the assistance of an honest, experienced and capable stenographer, and much credit is due him for the present orderly character of my office records and the completeness of this report.

Respectfully submitted,

ALBERT J. GALEN.

Attorney General.